

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

B.P.J. by her next friend and)
mother, HEATHER JACKSON,)
Plaintiff,)
vs.) Case No.
WEST VIRGINIA STATE BOARD OF) 2:21-cv-00316
EDUCATION, HARRISON COUNTY)
BOARD OF EDUCATION, WEST)
VIRGINIA SECONDARY SCHOOL)
ACTIVITIES COMMISSION, W.)
CLAYTON BURCH in his official)
capacity as State)
Superintendent, DORA STUTLER,))
in her official capacity as)
Harrison County)
Superintendent, and THE STATE)
OF WEST VIRGINIA,)
Defendants.)
And)
LAINEY ARMISTEAD,)
Defendant-Intervenor.)
-----)

REMOTE VIDEOTAPED DEPOSITION OF
DORA STUTLER

AND

DAVE MAZZA

Tuesday, March 8, 2022

Volume I

Reported by:

ALEXIS KAGAY, CSR No. 13795

Job No. 5079542

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1 Q Did you or anyone at the county board present
2 the county board members with the -- with the bill
3 H.B. 3293?

4 A No.

5 Q Has the board voted in any way relating to 01:05:04
6 policies around H.B. 3293?

7 A No.

8 Q What is the county board's relationship with
9 the Department of Education?

10 A I believe, as the superintendent, I am the 01:05:21
11 conduit from the County Board of Education to my
12 board. So information that comes from the state
13 board is usually a conduit through me to the board,
14 although my board has -- our state boards have their
15 own association that also has a relationship with 01:05:50
16 the state board, and they do have a fall meeting and
17 a winter meeting to update board members. So
18 they -- they have a relationship outside of my
19 relationship with the state board through that
20 organization. 01:06:08

21 Q When you say "they," who are you referring
22 to?

23 A My board members. My five board members are
24 part of a state -- it's just an association. Like I
25 have an association for superintendents, there's an 01:06:23

1 Q Understood. Does the county board have any
2 policies pertaining to sports?

3 A We have minimal. We have two.

4 Q And what are those two policies?

5 A We have a policy on extracurricular 01:44:45
6 activities for 6 to 12, just defining what
7 extracurricular would be for 6 to 12th grade. And
8 the other policy that we have is on how you obtain a
9 letter, how are you a lettermen, as far as sports is
10 concerned. 01:45:07

11 Q When were those policies developed?

12 A I believe 2008 was one. I don't remember the
13 date on the other. They were early. They're --
14 they're older policies.

15 Q So as it relates to the lettermen policy, 01:45:20
16 I'll use that as an example, who is responsible for
17 enforcing it?

18 A That would be the school AD and the athletic
19 program at the school. That would be really
20 pertaining to the high school athletic directors. 01:45:40

21 Q And does the county board ever need to step
22 in, as far as enforcing those policies?

23 A Only if there would be a disagreement. I
24 would assume that if a child thought they were
25 supposed to get a letter, and they didn't, then I 01:46:00

1 would probably be -- it would be brought to my
2 attention.

3 Q Understood. And just for clarity, does the
4 county board have any policies related to sex
5 separation in sports? 01:46:12

6 A No, we do not have an adopted policy for
7 that. We follow SSAC guidelines on what teams are
8 coed.

9 Q Does the County have any policies pertaining
10 to transgender students? 01:46:40

11 A No.

12 Q What do you know about H.B. 3293?

13 MS. DENIKER: Objection to the form.

14 THE WITNESS: It -- it was a state law passed
15 in July of '21. 01:47:05

16 BY MS. REINHARDT:

17 Q What does H.B. 3293 do?

18 MS. DENIKER: Objection to the form.

19 THE WITNESS: I can really only tell you what
20 I know when I read the statute. It's a -- it makes 01:47:24
21 a distinction between -- it begins by saying that
22 there is an inherent difference between a male and a
23 female. It talks about safety during sporting
24 activities or doing -- during athletics. And it
25 also addresses the equity or displacement of female 01:47:46

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1 Q And once the association made you aware of
2 H.B. 3293, did you report -- did you report anything
3 related to H.B. 3293 to someone you report to?

4 And I can rephrase that if that was not
5 clear. 01:59:29

6 A No.

7 Q Did you discuss H.B. 3293 with anyone who
8 reports to you?

9 A No.

10 Q Was the County Board of Education -- did the 01:59:45
11 County Board of Education have a role in drafting
12 H.B. 3293?

13 A No.

14 Q Did the county board provide any comments or
15 thoughts to the legislature regarding H.B. 3293 that 02:00:01
16 you are aware of as Superintendent Stutler?

17 A Are you speaking about my county-elected
18 board or --

19 Q The County Board of Education, generally.

20 A No. 02:00:22

21 Q How was H.B. 3293 described to you as
22 Superintendent Stutler?

23 MS. DENIKER: Objection to the form.

24 THE WITNESS: I truly just read the

25 administrative updates, and I will tell you that we 02:00:42

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1 Do you see that?

2 A Yes.

3 Q Then on the following page, which is
4 HCBOE 00345, it says, "WV House Bill 3293."

5 Do you see that? 02:04:54

6 A Yes.

7 Q And is it correct that you, as Dora Stutler,
8 were not present for this presentation?

9 A I do not attend all of those association
10 meetings. So I do not recall that particular 02:05:12
11 presentation. These attorneys do present often at
12 these organization meetings.

13 Q After this presentation, did any of the --
14 other superintendents that are members of this
15 associations speak with you about a presentation? 02:05:33

16 A No.

17 Q Has the county board had any conversations
18 with the State Board of Education, prior to the
19 enactment of H.B. 3293, about students who are
20 transgender participating in sports? 02:05:54

21 A No.

22 Q Now, looking at this page, which I believe is
23 345, is that the same page you're currently on?

24 A Yes.

25 Q Can you just review it and let me know if 02:06:07

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1 THE WITNESS: No. Because we are not
2 operating under House B. -- House Bill 3293.

3 BY MS. REINHARDT:

4 Q Despite the injunction, if one was not put in
5 place, would the process that you've described be 03:09:05
6 the same for H.B. 3293?

7 MS. DENIKER: Object to the form.

8 THE WITNESS: If a student -- if a student
9 athlete is objecting to something, according to SSAC
10 rules, they could follow that process. 03:09:20

11 BY MS. REINHARDT:

12 Q Thank you. Did the county board have any
13 conversations with WVSSAC prior to the enactment of
14 H.B. 3293 about students who are transgender
15 participating in sports? 03:09:40

16 A No.

17 Q Do you know who Bernie Dolan is?

18 A Yes.

19 Q Who is Bernie Dolan?

20 A He's the executive director of the SSAC. 03:09:52

21 Q Did the county board have any conversations
22 with Mr. Dolan, prior to the enactment of H.B. 3293,
23 about students who are transgender participating in
24 sports?

25 A No. 03:10:11

1 for the fifth-grade year?

2 A Tarra Shields -- in conversation with
3 Tarra Shields, they put this plan into place, her
4 going into fourth grade. And, now, this is from
5 Tarra Shields. There were -- they -- she had a -- 04:08:05
6 I'm talking from Tarra, that she had a good
7 fourth-grade year. They were going -- she was going
8 into the fifth grade, and they felt there was really
9 no need to change anything.

10 At any time, a parent can request that the 04:08:20
11 plan be reviewed. So I would take that if there's
12 not another plan dated, that they felt that, you
13 know, she was having a good two years.

14 Q And who are you referring to when you say
15 "they"? 04:08:35

16 A I -- I would say Tarra Shields, this team
17 that was with her at Norwood. And you've also got
18 to understand the parent is involved in this.
19 And -- and B [REDACTED].

20 Q Did the county board implement any policies 04:08:46
21 related to transgender students after implementing
22 B [REDACTED]'s gender support plan?

23 A No.

24 Q Now I'm going to ask you to go back to what
25 was previously marked as WV-19. 04:09:05

1 MS. DENIKER: And I'm going to ask for --
2 this is Susan Deniker again.

3 What is the scope of timing on your question,
4 Ms. Reinhardt?

5 MS. REINHARDT: It will be from January 1st, 04:57:03
6 2019, to present.

7 THE WITNESS: No.

8 BY MS. REINHARDT:

9 Q Thank you. And just as one last final
10 follow-up question, has the county board implemented 04:57:12
11 any Title IX policies pertaining to transgender
12 students' participation in sports?

13 A No.

14 MS. REINHARDT: Thank you very much,
15 Superintendent Stutler. I believe that opposing 04:57:26
16 counsel may have a few questions for you.

17 THE WITNESS: Thank you.

18

19 EXAMINATION

20 BY MS. GREEN: 04:57:34

21 Q Hello, Superintendent Stutler. This is
22 Roberta Green with WVSSAC --

23 MS. GREEN: Kelly, did -- were you guys
24 hopping on to go first? Okay. I'll just leap to
25 the front of the line, then. 04:58:02

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1 Q Do you know how that process is done?

2 A Not from beginning to end. I know parts.

3 Q Is it fair to say that you will defer

4 testimony on behalf of the Harrison County Board of

5 Education about rostering for school sports in 05:54:29

6 Harrison County to the other designee for today's

7 30(b)(6) deposition?

8 A Yes.

9 Q You were also asked questions today about

10 House Bill 3293. 05:54:44

11 Superintendent Stutler, are you familiar with

12 that house bill that was passed by the West Virginia

13 legislature?

14 A Yes.

15 Q And you would have reviewed that bill; is 05:54:55

16 that correct?

17 A Yes.

18 Q You were asked some questions about whether

19 the Harrison County Board of Education supported

20 that bill, and I want to ask you more specific 05:55:03

21 questions about that.

22 Did the Harrison County Board of Education as

23 an entity do anything officially to advocate or

24 support that bill?

25 MS. REINHARDT: Objection to form. 05:55:15

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1 THE WITNESS: No.

2 BY MS. DENIKER:

3 Q Did any employee or agent of Harrison County,
4 in their official capacities, take any action to
5 advocate for the passage of that bill? 05:55:25

6 MS. REINHARDT: Objection.

7 THE WITNESS: No.

8 BY MS. DENIKER:

9 Q Did any employee or agent of the
10 Harrison County Board of Education in any way 05:55:34
11 contribute to the passage of that bill by providing
12 testimony or information to support passage of
13 House Bill 3293?

14 MS. REINHARDT: Objection to form.

15 THE WITNESS: No. 05:55:48

16 BY MS. DENIKER:

17 Q Did the Harrison County Board of Education,
18 through the elected board, pass any policy
19 proclamation or other statement that related to
20 House Bill 3293 in any way? 05:56:00

21 A No.

22 Q Has the Harrison County Board of Education
23 taken any action to implement the provisions of
24 House Bill 3293 as you sit here today?

25 A No. 05:56:13

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1 items that only go to certain people.

2 The secretaries have, usually, residency
3 information, scheduling, the schedules, things like
4 that, but some of the stuff that is put in the
5 WVEIS, it's mostly my counselor, myself and my 06:40:03
6 assistant.

7 Q In WVEIS, are students' names listed and
8 other -- so I'm asking, are student names listed,
9 including their ID number?

10 A That is correct. 06:40:16

11 Q And are students' genders listed in WVEIS?

12 A Yes, they are.

13 Q And if a student were to participate in a
14 school athletic program, would the athletic director
15 need to check WVEIS to know which team the student 06:40:39
16 needed to be on?

17 A No.

18 Q How is it -- how are students designated
19 between teams?

20 A They are given an information sheet that is 06:40:48
21 filled out by them or the -- the student or the
22 parent. That information goes back to the athletic
23 director who then puts it in a portal that would be
24 seen by the WVSSAC.

25 Q Does that portal have a name? 06:41:03

1 A It's part of the WVSSAC website where you
2 see -- I'm not sure if you've visited that website,
3 but there's an admin login.

4 Q And is -- is the information the athletic
5 director provides not a part of WVEIS? 06:41:28

6	A	It is not part of WVEIS.
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7 Q And is that information used to create a
8 roster?

9 A That information is used to create a roster.

10 Q So WVEIS is not used to create a roster; is 06:41:43
11 that correct?

12 MS. DENIKER: Object --

13 THE WITNESS: That is correct.

14 MS. DENIKER: -- to the form.

15 BY MS. REINHARDT: 06:41:51

16 Q And if I'm understanding correctly, the
17 administrative director would list whichever gender
18 is completed by a parent or the athlete in the form
19 you noted earlier; is that correct?

20	A That would be correct.	06:42:10
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21 Q And does Bridgeport Middle School have any
22 policies as it relates to gender separation in
23 sports?

24 A We don't have any policies.

25	Q	Is Bridgeport Middle School required to	06:42:32
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1 support meeting back in May of '21.

2 Q And what was the conversation about?

3 A As we were going through the gender support
4 plan, and we were finishing up, she was -- Heather
5 was asking specific questions about band. I said 06:50:15
6 that would not be a problem. You know, we do offer
7 related art classes other than our five core
8 classes, which is reading, English, science, math,
9 social studies. So we were pretty much asking B [REDACTED]
10 what other related art classes she would be 06:50:33
11 interested in other than band. She -- B [REDACTED] said,
12 art. And we do offer STEAM, etcetera.

13 And then Heather asked me, B [REDACTED] wants to
14 participate in cross-country. I said, No problem.
15 And then Heather asked me, B [REDACTED] wants to run with 06:50:48
16 the girls. And I -- I know -- I've known Heather --
17 I've had both of her -- I had her oldest son go
18 through, and she has another son that is an
19 eighth-grader in our building. And I looked at
20 Heather, and I said, You did hear about the bill 06:51:07
21 that was signed into law, that's going into effect
22 in July.

23 And she said, We know all about that.

24 And that was the only discussion we had with
25 this law that went into effect in the state of 06:51:17

1 West Virginia.

2 Q And if you know, did Mrs. Jackson take that
3 to mean that B [REDACTED] would have to participate on the
4 boys' sports team?

5 MS. DENIKER: Objection to the form of the 06:51:30
6 question, calls for speculation.

7 THE WITNESS: I honestly don't know.

8 BY MS. REINHARDT:

9 Q And what was the purpose in raising H.B. 3293
10 with Mrs. Jackson? 06:51:48

11 A Her question was pretty forward, and I just
12 wondered if she knew that that bill was going to
13 turn into a law in July.

14 Q Understood. I'm just checking my notes. One
15 moment. 06:52:13

16 And just for background information, do
17 you -- have you ever coached any sports?

18 A I have.

19 Q Which sports have you coached?

20 A I've coached football and track. 06:52:26

21 Q And were those in Harrison County?

22 A Football was in Monongalia County, 1989, and
23 track was in Harrison County, 1991, Lincoln High
24 School. Football was the -- what was then
25 Westover Junior High, which is now Westwood Middle. 06:52:51

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